

H. B. 4335

(By Delegates White, Doyle and Walters)

[By request of the Tax Division]

[Introduced January 27, 2012; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-15B-2, §11-15B-2a, §11-15B-24,
§11-15B-25, §11-15B-26, §11-15B-30, §11-15B-32, §11-15B-33 and
§11-15B-34 of the Code of West Virginia, 1931, as amended, all
relating to the administration of sales and use tax generally;
adding new definitions; clarifying present definitions;
incorporating changes to the Streamlined Sales and Use Tax
Agreement; adding a computer software maintenance contract as
a Streamlined Sales and Use Tax Agreement defined term;
relieving seller of tax liability in certain instances;
clarifying due dates that fall on weekends and legal holidays;
eliminating monetary allowance for certain sellers; providing
new effective dates; clarifying state administration of state
and local sales and use taxes, bases and exceptions.

Be it enacted by the Legislature of West Virginia:

That §11-15B-2, §11-15B-2a, §11-15B-24, §11-15B-25,

1 §11-15B-26, §11-15B-30, §11-15B-32, §11-15B-33 and §11-15B-34 of
2 the Code of West Virginia, 1931, as amended, be amended and
3 reenacted, all to read as follows:

4 **ARTICLE 15B. SALES AND USE TAX ADMINISTRATION.**

5 **§11-15B-2. Definitions.**

6 (a) *General.* -- When used in this article and articles fifteen
7 and fifteen-a of this chapter, words defined in subsection (b) of
8 this section shall have the meanings ascribed to them in this
9 section, except where a different meaning is distinctly expressed
10 or the context in which the term is used clearly indicates that a
11 different meaning is intended by the Legislature.

12 (b) *Terms defined.* --

13 (1) "Agent" means a person appointed by a seller to represent
14 the seller before the member states.

15 (2) "Agreement" means the Streamlined Sales and Use Tax
16 Agreement as defined in section two-a of this article.

17 (3) "Alcoholic beverages" means beverages that are suitable
18 for human consumption and contain one half of one percent or more
19 of alcohol by volume.

20 (4) "Bundled transaction" means the retail sale of two or more
21 products, except real property and services to real property,
22 where: (i) The products are otherwise distinct and identifiable;
23 and (ii) the products are sold for one nonitemized price. A
24 "bundled transaction" does not include the sale of any products in

1 which the "sales price" varies, or is negotiable, based on the
2 selection by the purchaser of the products included in the
3 transaction.

4 (A) "Distinct and identifiable products" does not include:

5 (i) Packaging such as containers, boxes, sacks, bags and
6 bottles or other materials such as wrapping, labels, tags and
7 instruction guides that accompany the "retail sale" of the products
8 and are incidental or immaterial to the "retail sale" thereof.
9 Examples of packaging that are incidental or immaterial include
10 grocery sacks, shoe boxes, dry cleaning garment bags and express
11 delivery envelopes and boxes;

12 (ii) A product provided free of charge with the required
13 purchase of another product. A product is "provided free of charge"
14 if the "sales price" of the product purchased does not vary
15 depending on the inclusion of the product "provided free of
16 charge"; or

17 (iii) Items included in the member state's definition of
18 "sales price" as defined in this section.

19 (B) The term "one nonitemized price" does not include a price
20 that is separately identified by product on binding sales or other
21 supporting sales-related documentation made available to the
22 customer in paper or electronic form including, but not limited to,
23 an invoice, bill of sale, receipt, contract, service agreement,
24 lease agreement, periodic notice of rates and services, rate card

1 or price list.

2 (C) A transaction that otherwise meets the definition of a
3 "bundled transaction", as defined in this subdivision, is not a
4 "bundled transaction" if it is:

5 (i) The "retail sale" of tangible personal property and a
6 service where the tangible personal property is essential to the
7 use of the service and is provided exclusively in connection with
8 the service and the true object of the transaction is the service;
9 or

10 (ii) The "retail sale" of services where one service is
11 provided that is essential to the use or receipt of a second
12 service and the first service is provided exclusively in connection
13 with the second service and the true object of the transaction is
14 the second service; or

15 (iii) A transaction that includes taxable products and
16 nontaxable products and the "purchase price" or "sales price" of
17 the taxable products is de minimis;

18 (I) "De minimis" means the seller's "purchase price" or "sales
19 price" of the taxable products is ten percent or less of the total
20 "purchase price" or "sales price" of the bundled products;

21 (II) Sellers shall use either the "purchase price" or the
22 "sales price" of the products to determine if the taxable products
23 are de minimis. Sellers may not use a combination of the "purchase
24 price" and "sales price" of the products to determine if the

1 taxable products are de minimis;

2 (III) Sellers shall use the full term of a service contract to
3 determine if the taxable products are de minimis; or

4 (iv) A transaction that includes products taxable at the
5 general rate of tax and food or food ingredients taxable at a lower
6 rate of tax and the "purchase price" or "sales price" of the
7 products taxable at the general sales tax rate is de minimis. For
8 purposes of this subparagraph, the term "de minimis" has the same
9 meaning as ascribed to it under subparagraph (iii) of this
10 paragraph;

11 (v) The "retail sale" of exempt tangible personal property, or
12 food and food ingredients taxable at a lower rate of tax, and
13 tangible personal property taxable at the general rate of tax
14 where:

15 (I) The transaction includes "food and food ingredients",
16 "drugs", "durable medical equipment", "mobility-enhancing
17 equipment", "over-the-counter drugs", "prosthetic devices" or
18 "medical supplies", all as defined in this article; and

19 (II) Where the seller's "purchase price" or "sales price" of
20 the taxable tangible personal property taxable at the general rate
21 of tax is fifty percent or less of the total "purchase price" or
22 "sales price" of the bundled tangible personal property. Sellers
23 may not use a combination of the "purchase price" and "sales price"
24 of the tangible personal property when making the fifty percent

1 determination for a transaction.

2 (5) "Candy" means a preparation of sugar, honey or other
3 natural or artificial sweeteners in combination with chocolate,
4 fruits, nuts or other ingredients or flavorings in the form of
5 bars, drops or pieces. "Candy" shall not include any preparation
6 containing flour and shall require no refrigeration.

7 (6) "Clothing" means all human wearing apparel suitable for
8 general use. The following list contains examples and is not
9 intended to be an all-inclusive list.

10 (A) "Clothing" shall include:

11 (i) Aprons, household and shop;

12 (ii) Athletic supporters;

13 (iii) Baby receiving blankets;

14 (iv) Bathing suits and caps;

15 (v) Beach capes and coats;

16 (vi) Belts and suspenders;

17 (vii) Boots;

18 (viii) Coats and jackets;

19 (ix) Costumes;

20 (x) Diapers, children and adult, including disposable diapers;

21 (xi) Ear muffs;

22 (xii) Footlets;

23 (xiii) Formal wear;

24 (xiv) Garters and garter belts;

- 1 (xv) Girdles;
- 2 (xvi) Gloves and mittens for general use;
- 3 (xvii) Hats and caps;
- 4 (xviii) Hosiery;
- 5 (xix) Insoles for shoes;
- 6 (xx) Lab coats;
- 7 (xxi) Neckties;
- 8 (xxii) Overshoes;
- 9 (xxiii) Pantyhose;
- 10 (xxiv) Rainwear;
- 11 (xxv) Rubber pants;
- 12 (xxvi) Sandals;
- 13 (xxvii) Scarves;
- 14 (xxviii) Shoes and shoe laces;
- 15 (xxix) Slippers;
- 16 (xxx) Sneakers;
- 17 (xxxii) Socks and stockings;
- 18 (xxxiii) Steel-toed shoes;
- 19 (xxxiv) Underwear;
- 20 (xxxv) Uniforms, athletic and nonathletic; and
- 21 (xxxvi) Wedding apparel.
- 22 (B) "Clothing" shall not include:
- 23 (i) Belt buckles sold separately;
- 24 (ii) Costume masks sold separately;

- 1 (iii) Patches and emblems sold separately;
- 2 (iv) Sewing equipment and supplies, including, but not limited
3 to, knitting needles, patterns, pins, scissors, sewing machines,
4 sewing needles, tape measures and thimbles; and
- 5 (v) Sewing materials that become part of "clothing" including,
6 but not limited to, buttons, fabric, lace, thread, yarn and
7 zippers.
- 8 (7) "Clothing accessories or equipment" means incidental items
9 worn on the person or in conjunction with "clothing". "Clothing
10 accessories or equipment" are mutually exclusive of and may be
11 taxed differently than apparel within the definition of "clothing",
12 "sport or recreational equipment" and "protective equipment". The
13 following list contains examples and is not intended to be an all-
14 inclusive list. "Clothing accessories or equipment" shall include:
- 15 (A) Briefcases;
- 16 (B) Cosmetics;
- 17 (C) Hair notions, including, but not limited to, barrettes,
18 hair bows and hair nets;
- 19 (D) Handbags;
- 20 (E) Handkerchiefs;
- 21 (F) Jewelry;
- 22 (G) Sunglasses, nonprescription;
- 23 (H) Umbrellas;
- 24 (I) Wallets;

1 (J) Watches; and

2 (K) Wigs and hair pieces.

3 (8) "Certified automated system" or "CAS" means software
4 certified under the agreement to calculate the tax imposed by each
5 jurisdiction on a transaction, determine the amount of tax to remit
6 to the appropriate state and maintain a record of the transaction.

7 (9) "Certified service provider" or "CSP" means an agent
8 certified under the agreement to perform all of the seller's sales
9 and use tax functions other than the seller's obligation to remit
10 tax on its own purchases.

11 (10) "Computer" means an electronic device that accepts
12 information in digital or similar form and manipulates the
13 information for a result based on a sequence of instructions.

14 (11) "Computer software" means a set of coded instructions
15 designed to cause a "computer" or automatic data processing
16 equipment to perform a task.

17 (12) "Computer software maintenance contract" means a contract
18 that obligates a vendor of computer software, or other person, to
19 provide a customer with future updates or upgrades to computer
20 software, support services with respect to computer software or
21 both. The term "computer software maintenance contract" includes
22 contracts sold by a person other than the vendor of the computer
23 software to which the contract relates.

24 (A) A "mandatory computer software maintenance contract" is a

1 computer software maintenance contract that the customer is
2 obligated by contract to purchase as a condition to the retail sale
3 of computer software.

4 (B) An "optional computer maintenance contract" is a computer
5 software maintenance contract that a customer is not obligated to
6 purchase as a condition to the retail sale of computer software.

7 (13) "Delivered electronically" means delivered to the
8 purchaser by means other than tangible storage media.

9 ~~(12)~~ (14) "Delivery charges" means charges by the seller of
10 personal property or services for preparation and delivery to a
11 location designated by the purchaser of personal property or
12 services including, but not limited to, transportation, shipping,
13 postage, handling, crating and packing.

14 ~~(13)~~ (15) "Dietary supplement" means any product, other than
15 "tobacco", intended to supplement the diet that:

16 (A) Contains one or more of the following dietary ingredients:

17 (i) A vitamin;

18 (ii) A mineral;

19 (iii) An herb or other botanical;

20 (iv) An amino acid;

21 (v) A dietary substance for use by humans to supplement the
22 diet by increasing the total dietary intake; or

23 (vi) A concentrate, metabolite, constituent, extract or
24 combination of any ingredient described in subparagraph (i) through

1 (v), inclusive, of this paragraph;

2 (B) And is intended for ingestion in tablet, capsule, powder,
3 softgel, gelcap or liquid form, or if not intended for ingestion in
4 such a form, is not represented as conventional food and is not
5 represented for use as a sole item of a meal or of the diet; and

6 (C) Is required to be labeled as a dietary supplement,
7 identifiable by the "Supplemental Facts" box found on the label as
8 required pursuant to 21 CFR § 101.36 or in any successor section of
9 the Code of Federal Regulations.

10 ~~(14)~~ (16) "Direct mail" means printed material delivered or
11 distributed by United States mail or other delivery service to a
12 mass audience or to addressees on a mailing list provided by the
13 purchaser or at the direction of the purchaser when the cost of the
14 items are not billed directly to the recipients. "Direct mail"
15 includes tangible personal property supplied directly or indirectly
16 by the purchaser to the direct mail seller for inclusion in the
17 package containing the printed material. "Direct mail" does not
18 include multiple items of printed material delivered to a single
19 address.

20 ~~(15)~~ (17) "Drug" means a compound, substance or preparation,
21 and any component of a compound, substance or preparation, other
22 than food and food ingredients, dietary supplements or alcoholic
23 beverages:

24 (A) Recognized in the official United States Pharmacopoeia,

1 official Homeopathic Pharmacopoeia of the United States or official
2 National Formulary, and supplement to any of them;

3 (B) Intended for use in the diagnosis, cure, mitigation,
4 treatment or prevention of disease; or

5 (C) Intended to affect the structure or any function of the
6 body. The amendment to this subdivision enacted during the 2009
7 regular legislative session shall apply to sales made after July 1,
8 2009.

9 ~~(16)~~ (18) "Durable medical equipment" means equipment,
10 including repair and replacement parts for the equipment, but does
11 not include "mobility-enhancing equipment", which:

12 (A) Can withstand repeated use;

13 (B) Is primarily and customarily used to serve a medical
14 purpose;

15 (C) Generally is not useful to a person in the absence of
16 illness or injury; and

17 (D) Is not worn in or on the body.

18 ~~(17)~~ (19) "Electronic" means relating to technology having
19 electrical, digital, magnetic, wireless, optical, electromagnetic
20 or similar capabilities.

21 ~~(18)~~ (20) "Eligible property" means an item of a type, such as
22 clothing, that qualifies for a sales tax holiday exemption in this
23 state.

24 ~~(19)~~ (21) "Energy Star qualified product" means a product that

1 meets the energy efficient guidelines set by the United States
2 Environmental Protection Agency and the United States Department of
3 Energy that are authorized to carry the Energy Star label. Covered
4 products are those listed at www.energystar.gov or successor
5 address.

6 ~~(20)~~ (22) "Entity-based exemption" means an exemption based on
7 who purchases the product or service or who sells the product or
8 service. An exemption that is available to all individuals shall
9 not be considered an entity-based exemption.

10 ~~(21)~~ (23) "Food and food ingredients" means substances,
11 whether in liquid, concentrated, solid, frozen, dried or dehydrated
12 form, that are sold for ingestion or chewing by humans and are
13 consumed for their taste or nutritional value. "Food and food
14 ingredients" does not include alcoholic beverages, prepared food or
15 tobacco.

16 ~~(22)~~ (24) "Food sold through vending machines" means food
17 dispensed from a machine or other mechanical device that accepts
18 payment.

19 ~~(23)~~ (25) "Fur clothing" means "clothing" that is required to
20 be labeled as a fur product under the Federal Fur Products Labeling
21 Act (15 U.S.C. §69) and the value of the fur components in the
22 product is more than three times the value of the next most
23 valuable tangible component. "Fur clothing" is human-wearing
24 apparel suitable for general use but may be taxed differently from

1 "clothing". For the purposes of the definition of "fur clothing",
2 the term "fur" means any animal skin or part thereof with hair,
3 fleece or fur fibers attached thereto, either in its raw or
4 processed state, but shall not include such skins that have been
5 converted into leather or suede, or which in processing the hair,
6 fleece or fur fiber has been completely removed.

7 ~~(24)~~ (26) "Governing board" means the governing board of the
8 Streamlined Sales and Use Tax Agreement.

9 ~~(25)~~ (27) "Grooming and hygiene products" are soaps and
10 cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants
11 and sun tan lotions and screens, regardless of whether the items
12 meet the definition of "over-the-counter drugs".

13 ~~(26)~~ (28) "Includes" and "including" when used in a definition
14 contained in this article is not considered to exclude other things
15 otherwise within the meaning of the term being defined.

16 ~~(27)~~ (29) "Layaway sale" means a transaction in which property
17 is set aside for future delivery to a customer who makes a deposit,
18 agrees to pay the balance of the purchase price over a period of
19 time and, at the end of the payment period, receives the property.
20 An order is accepted for layaway by the seller when the seller
21 removes the property from normal inventory or clearly identifies
22 the property as sold to the purchaser.

23 ~~(28)~~ (30) "Lease" includes rental, hire and license. "Lease"
24 means any transfer of possession or control of tangible personal

1 property for a fixed or indeterminate term for consideration. A
2 lease or rental may include future options to purchase or extend.

3 (A) "Lease" does not include:

4 (i) A transfer of possession or control of property under a
5 security agreement or deferred payment plan that requires the
6 transfer of title upon completion of the required payments;

7 (ii) A transfer or possession or control of property under an
8 agreement that requires the transfer of title upon completion of
9 required payments and payment of an option price does not exceed
10 the greater of \$100 or one percent of the total required payments;
11 or

12 (iii) Providing tangible personal property along with an
13 operator for a fixed or indeterminate period of time. A condition
14 of this exclusion is that the operator is necessary for the
15 equipment to perform as designed. For the purpose of this
16 subparagraph, an operator must do more than maintain, inspect or
17 set-up the tangible personal property.

18 (iv) "Lease" or "rental" includes agreements covering motor
19 vehicles and trailers where the amount of consideration may be
20 increased or decreased by reference to the amount realized upon
21 sale or disposition of the property as defined in 26 U.S.C.
22 §7701(h)(1).

23 (B) This definition shall be used for sales and use tax
24 purposes regardless if a transaction is characterized as a lease or

1 rental under generally accepted accounting principles, the Internal
2 Revenue Code, the Uniform Commercial Code or other provisions of
3 federal, state or local law.

4 ~~(29)~~ (31) "Load and leave" means delivery to the purchaser by
5 use of a tangible storage media where the tangible storage media is
6 not physically transferred to the purchaser.

7 ~~(30)~~ (32) "Mobility-enhancing equipment" means equipment,
8 including repair and replacement parts to the equipment, but does
9 not include "durable medical equipment", which:

10 (A) Is primarily and customarily used to provide or increase
11 the ability to move from one place to another and which is
12 appropriate for use either in a home or a motor vehicle;

13 (B) Is not generally used by persons with normal mobility; and

14 (C) Does not include any motor vehicle or equipment on a motor
15 vehicle normally provided by a motor vehicle manufacturer.

16 ~~(31)~~ (33) "Model I seller" means a seller registered under the
17 Streamlined Sales and Use Tax Agreement that has selected a
18 certified service provider as its agent to perform all the seller's
19 sales and use tax functions, other than the seller's obligation to
20 remit tax on its own purchases.

21 ~~(32)~~ (34) "Model II seller" means a seller registered under
22 the Streamlined Sales and Use Tax Agreement that has selected a
23 certified automated system to perform part of its sales and use tax
24 functions, but retains responsibility for remitting the tax.

1 ~~(33)~~ (35) "Model III seller" means a seller registered under
2 the Streamlined Sales and Use Tax Agreement that has sales in at
3 least five member states, has total annual sales revenue of at
4 least \$500 million, has a proprietary system that calculates the
5 amount of tax due each jurisdiction and has entered into a
6 performance agreement with the member states that establishes a tax
7 performance standard for the seller. As used in this definition, a
8 seller includes an affiliated group of sellers using the same
9 proprietary system.

10 (36) "Model IV seller" means a seller registered under the
11 Streamlined Sales and Use Tax Agreement and is not a Model I
12 seller, a Model II seller or a Model III seller.

13 ~~(36)~~ (37) "Over-the-counter drug" means a drug that contains
14 a label that identifies the product as a drug as required by 21 CFR
15 § 201.66. The "over-the-counter drug" label includes:

16 (A) A "drug facts" panel; or

17 (B) A statement of the "active ingredient(s)" with a list of
18 those ingredients contained in the compound, substance or
19 preparation.

20 ~~(37)~~ (38) "Person" means an individual, trust, estate,
21 fiduciary, partnership, limited liability company, limited
22 liability partnership, corporation or any other legal entity.

23 ~~(38)~~ (39) "Personal service" includes those:

24 (A) Compensated by the payment of wages in the ordinary course

1 of employment; and

2 (B) Rendered to the person of an individual without, at the
3 same time, selling tangible personal property, such as nursing,
4 barbering, manicuring and similar services.

5 ~~(39)~~ (40) (A) "Prepared food" means:

6 (i) Food sold in a heated state or heated by the seller;

7 (ii) Two or more food ingredients mixed or combined by the
8 seller for sale as a single item; or

9 (iii) Food sold with eating utensils provided by the seller,
10 including plates, knives, forks, spoons, glasses, cups, napkins or
11 straws. A plate does not include a container or packaging used to
12 transport the food.

13 (B) "Prepared food" in subparagraph (ii), paragraph (A) of
14 this subdivision does not include food that is only cut, repackaged
15 or pasteurized by the seller, and eggs, fish, meat, poultry and
16 foods containing these raw animal foods requiring cooking by the
17 consumer as recommended by the Food and Drug Administration in
18 Chapter 3, Part 401.11 of its Food Code of 2001 so as to prevent
19 food-borne illnesses.

20 (C) Additionally, "prepared food" as defined in this
21 subdivision does not include:

22 (i) Food sold by a seller whose proper primary NAICS
23 classification is manufacturing in Sector 311, except Subsection
24 3118 (bakeries);

1 (ii) Food sold in an unheated state by weight or volume as a
2 single item; or

3 (iii) Bakery items, including bread, rolls, buns, biscuits,
4 bagels, croissants, pastries, donuts, danish, cakes, tortes, pies,
5 tarts, muffins, bars, cookies, tortillas.

6 ~~(40)~~ (41) "Prescription" means an order, formula or recipe
7 issued in any form of oral, written, electronic or other means of
8 transmission by a duly licensed practitioner authorized by the laws
9 of this state to issue prescriptions.

10 ~~(41)~~ (42) "Prewritten computer software" means "computer
11 software", including prewritten upgrades, which is not designed and
12 developed by the author or other creator to the specifications of
13 a specific purchaser.

14 (A) The combining of two or more prewritten computer software
15 programs or prewritten portions thereof does not cause the
16 combination to be other than prewritten computer software.

17 (B) "Prewritten computer software" includes software designed
18 and developed by the author or other creator to the specifications
19 of a specific purchaser when it is sold to a person other than the
20 specific purchaser. Where a person modifies or enhances computer
21 software of which the person is not the author or creator, the
22 person is considered to be the author or creator only of the
23 person's modifications or enhancements.

24 (C) "Prewritten computer software" or a prewritten portion

1 thereof that is modified or enhanced to any degree, where the
2 modification or enhancement is designed and developed to the
3 specifications of a specific purchaser, remains prewritten computer
4 software. However, where there is a reasonable, separately stated
5 charge or an invoice or other statement of the price given to the
6 purchaser for the modification or enhancement, the modification or
7 enhancement does not constitute prewritten computer software.

8 ~~(42)~~ (43) "Product-based exemption" means an exemption based
9 on the description of the product or service and not based on who
10 purchases the product or service or how the purchaser intends to
11 use the product or service.

12 ~~(43)~~ (44) "Prosthetic device" means a replacement, corrective
13 or supportive device, including repair and replacement parts for
14 the device worn on or in the body, to:

15 (A) Artificially replace a missing portion of the body;

16 (B) Prevent or correct physical deformity or malfunction of
17 the body; or

18 (C) Support a weak or deformed portion of the body.

19 ~~(44)~~ (45) "Protective equipment" means items for human wear
20 and designed as protection of the wearer against injury or disease
21 or as protections against damage or injury of other persons or
22 property but not suitable for general use.

23 ~~(45)~~ (46) "Purchase price" means the measure subject to the
24 tax imposed by article fifteen or fifteen-a of this chapter and has

1 the same meaning as sales price.

2 ~~(46)~~ (47) "Purchaser" means a person to whom a sale of
3 personal property is made or to whom a service is furnished.

4 ~~(47)~~ (48) "Retail sale" or "sale at retail" means:

5 (A) Any sale, lease or rental for any purpose other than for
6 resale as tangible personal property, sublease or subrent; and

7 (B) Any sale of a service other than a service purchased for
8 resale.

9 ~~(48)~~ (49) (A) "Sales price" means the measure subject to the
10 tax levied under article fifteen or fifteen-a of this chapter and
11 includes the total amount of consideration, including cash, credit,
12 property and services, for which personal property or services are
13 sold, leased or rented, valued in money, whether received in money
14 or otherwise, without any deduction for the following:

15 (i) The seller's cost of the property sold;

16 (ii) The cost of materials used, labor or service cost,
17 interest, losses, all costs of transportation to the seller, all
18 taxes imposed on the seller and any other expense of the seller;

19 (iii) Charges by the seller for any services necessary to
20 complete the sale, other than delivery and installation charges;

21 (iv) Delivery charges; and

22 (v) Installation charges.

23 (B) "Sales price" does not include:

24 (i) Discounts, including cash, term or coupons that are not

1 reimbursed by a third party that are allowed by a seller and taken
2 by a purchaser on a sale;

3 (ii) Interest, financing and carrying charges from credit
4 extended on the sale of personal property, goods or services, if
5 the amount is separately stated on the invoice, bill of sale or
6 similar document given to the purchaser; or

7 (iii) Any taxes legally imposed directly on the consumer that
8 are separately stated on the invoice, bill of sale or similar
9 document given to the purchaser.

10 (C) "Sales price" shall include consideration received by the
11 seller from third parties if:

12 (i) The seller actually receives consideration from a party
13 other than the purchaser and the consideration is directly related
14 to a price reduction or discount on the sale;

15 (ii) The seller has an obligation to pass the price reduction
16 or discount through to the purchaser;

17 (iii) The amount of the consideration attributable to the sale
18 is fixed and determinable by the seller at the time of the sale of
19 the item to the purchaser; and

20 (iv) One of the following criteria is met:

21 (I) The purchaser presents a coupon, certificate or other
22 documentation to the seller to claim a price reduction or discount
23 where the coupon, certificate or documentation is authorized,
24 distributed or granted by a third party with the understanding that

1 the third party will reimburse any seller to whom the coupon,
2 certificate or documentation is presented;

3 (II) The purchaser identifies himself or herself to the seller
4 as a member of a group or organization entitled to a price
5 reduction or discount (a "preferred customer" card that is
6 available to any patron does not constitute membership in such a
7 group); or

8 (III) The price reduction or discount is identified as a
9 third-party price reduction or discount on the invoice received by
10 the purchaser or on a coupon, certificate or other documentation
11 presented by the purchaser.

12 ~~(49)~~ (50) "Sales tax" means the tax levied under article
13 fifteen of this chapter.

14 ~~(50)~~ (51) "School art supply" means an item commonly used by
15 a student in a course of study for artwork. The term is mutually
16 exclusive of the terms "school supply", "school instructional
17 material" and "school computer supply" and may be taxed
18 differently. The following is an all-inclusive list:

- 19 (A) Clay and glazes;
- 20 (B) Paints; acrylic, tempora and oil;
- 21 (C) Paintbrushes for artwork;
- 22 (D) Sketch and drawing pads; and
- 23 (E) Watercolors.

24 ~~(51)~~ (52) "School instructional material" means written

1 material commonly used by a student in a course of study as a
2 reference and to learn the subject being taught. The term is
3 mutually exclusive of the terms "school supply", "school art
4 supply" and "school computer supply" and may be taxed differently.

5 The following is an all-inclusive list:

- 6 (A) Reference books;
- 7 (B) Reference maps and globes;
- 8 (C) Textbooks; and
- 9 (D) Workbooks.

10 ~~(52)~~ (53) "School computer supply" means an item commonly used
11 by a student in a course of study in which a computer is used. The
12 term is mutually exclusive of the terms "school supply", "school
13 art supply" and "school instructional material" and may be taxed
14 differently. The following is an all-inclusive list:

- 15 (A) Computer storage media; diskettes, compact disks;
- 16 (B) Handheld electronic schedulers, except devices that are
17 cellular phones;
- 18 (C) Personal digital assistants, except devices that are
19 cellular phones;
- 20 (D) Computer printers; and
- 21 (E) Printer supplies for computers; printer paper, printer ink.

22 ~~(53)~~ (54) "School supply" means an item commonly used by a
23 student in a course of study. The term is mutually exclusive of the
24 terms "school art supply", "school instructional material" and

1 "school computer supply" and may be taxed differently. The
2 following is an all-inclusive list of school supplies:

- 3 (A) Binders;
- 4 (B) Book bags;
- 5 (C) Calculators;
- 6 (D) Cellophane tape;
- 7 (E) Blackboard chalk;
- 8 (F) Compasses;
- 9 (G) Composition books;
- 10 (H) Crayons;
- 11 (I) Erasers;
- 12 (J) Folders; expandable, pocket, plastic and manila;
- 13 (K) Glue, paste and paste sticks;
- 14 (L) Highlighters;
- 15 (M) Index cards;
- 16 (N) Index card boxes;
- 17 (O) Legal pads;
- 18 (P) Lunch boxes;
- 19 (Q) Markers;
- 20 (R) Notebooks;
- 21 (S) Paper; loose-leaf ruled notebook paper, copy paper, graph
22 paper, tracing paper, manila paper, colored paper, poster board and
23 construction paper;

- 1 (T) Pencil boxes and other school supply boxes;
2 (U) Pencil sharpeners;
3 (V) Pencils;
4 (W) Pens;
5 (X) Protractors;
6 (Y) Rulers;
7 (Z) Scissors; and
8 (AA) Writing tablets.

9 ~~(54)~~ (55) "Seller" means any person making sales, leases or
10 rentals of personal property or services.

11 ~~(55)~~ (56) "Service" or "selected service" includes all
12 nonprofessional activities engaged in for other persons for a
13 consideration which involve the rendering of a service as
14 distinguished from the sale of tangible personal property, but does
15 not include contracting, personal services, services rendered by an
16 employee to his or her employer, any service rendered for resale or
17 any service furnished by a business that is subject to the control
18 of the Public Service Commission when the service or the manner in
19 which it is delivered is subject to regulation by the Public
20 Service Commission of this state. The term "service" or "selected
21 service" does not include payments received by a vendor of tangible
22 personal property as an incentive to sell a greater volume of such
23 tangible personal property under a manufacturer's, distributor's or
24 other third-party's marketing support program, sales incentive

1 program, cooperative advertising agreement or similar type of
2 program or agreement and these payments are not considered to be
3 payments for a "service" or "selected service" rendered, even
4 though the vendor may engage in attendant or ancillary activities
5 associated with the sales of tangible personal property as required
6 under the programs or agreements.

7 ~~(56)~~ (57) "Soft drink" means nonalcoholic beverages that
8 contain natural or artificial sweeteners. "Soft drinks" do not
9 include beverages that contain milk or milk products, soy, rice or
10 similar milk substitutes or greater than fifty percent of vegetable
11 or fruit juice by volume.

12 ~~(57)~~ (58) "Sport or recreational equipment" means items
13 designed for human use and worn in conjunction with an athletic or
14 recreational activity that are not suitable for general use. "Sport
15 or recreational equipment" are mutually exclusive of and may be
16 taxed differently than apparel within the definition of "clothing",
17 "clothing accessories or equipment" and "protective equipment". The
18 following list contains examples and is not intended to be an all-
19 inclusive list. "Sport or recreational equipment" shall include:

- 20 (A) Ballet and tap shoes;
- 21 (B) Cleated or spiked athletic shoes;
- 22 (C) Gloves, including, but not limited to, baseball, bowling,
23 boxing, hockey and golf;
- 24 (D) Goggles;

- 1 (E) Hand and elbow guards;
- 2 (F) Life preservers and vests;
- 3 (G) Mouth guards;
- 4 (H) Roller and ice skates;
- 5 (I) Shin guards;
- 6 (J) Shoulder pads;
- 7 (K) Ski boots;
- 8 (L) Waders; and
- 9 (M) Wetsuits and fins.

10 ~~(58)~~ (59) "State" means any state of the United States, the
11 District of Columbia and the Commonwealth of Puerto Rico.

12 ~~(59)~~ (60) "Tangible personal property" means personal property
13 that can be seen, weighed, measured, felt or touched or that is in
14 any manner perceptible to the senses. "Tangible personal property"
15 includes, but is not limited to, electricity, steam, water, gas and
16 prewritten computer software.

17 ~~(60)~~ (61) "Tax" includes all taxes levied under articles
18 fifteen and fifteen-a of this chapter and additions to tax,
19 interest and penalties levied under article ten of this chapter.

20 ~~(61)~~ (62) "Tax Commissioner" means the State Tax Commissioner
21 or his or her delegate. The term "delegate" in the phrase "or his
22 or her delegate", when used in reference to the Tax Commissioner,
23 means any officer or employee of the State Tax Division duly
24 authorized by the Tax Commissioner directly, or indirectly by one

1 or more redelegations of authority, to perform the functions
2 mentioned or described in this article or rules promulgated for
3 this article.

4 ~~(62)~~ (63) "Taxpayer" means any person liable for the taxes
5 levied by articles fifteen and fifteen-a of this chapter or any
6 additions to tax penalties imposed by article ten of this chapter.

7 ~~(63)~~ (64) "Telecommunications service" or "telecommunication
8 service" when used in this article and articles fifteen and
9 fifteen-a of this chapter shall have the same meaning as that term
10 is defined in section two-b of this article.

11 ~~(64)~~ (65) "Tobacco" means cigarettes, cigars, chewing or pipe
12 tobacco or any other item that contains tobacco.

13 ~~(65)~~ (66) "Use tax" means the tax levied under article
14 fifteen-a of this chapter.

15 ~~(66)~~ (67) "Use-based exemption" means an exemption based on a
16 specified use of the product or service by the purchaser.

17 ~~(67)~~ (68) "Vendor" means any person furnishing services taxed
18 by article fifteen or fifteen-a of this chapter or making sales of
19 tangible personal property or custom software. "Vendor" and
20 "seller" are used interchangeably in this article and in articles
21 fifteen and fifteen-a of this chapter.

22 (c) Additional definitions.

23 Other terms used in this article are defined in articles
24 fifteen and fifteen-a of this chapter, which definitions are

1 incorporated by reference into this article. Additionally, other
2 sections of this article may define terms primarily used in the
3 section in which the term is defined.

4 **§11-15B-2a. Streamlined Sales and Use Tax Agreement defined.**

5 As used in this article and articles fifteen and fifteen-a of
6 this chapter, the term "Streamlined Sales and Use Tax Agreement" or
7 "agreement" means the agreement adopted November 12, 2002, by
8 states that enacted authority to engage in multistate discussions
9 similar to that provided in section four of this article, except
10 when the context in which the term is used clearly indicates that
11 a different meaning is intended by the Legislature. "Agreement"
12 includes amendments to the agreement adopted by the implementing
13 states in calendar years 2003, 2004, 2005, 2006, 2007, 2008, 2009,
14 2010, 2011 and amendments adopted by the governing board on or
15 before, January 31, ~~2010~~ 2012, but does not include any substantive
16 changes in the agreement adopted after January 31, ~~2010~~ 2012.

17 **§11-15B-24. Administration of exemptions.**

18 (a) *General rules.--*

19 When a purchaser claims an exemption from paying tax under
20 article fifteen or fifteen-a of this chapter:

21 (1) Sellers shall obtain identifying information of the
22 purchaser and the reason for claiming a tax exemption at the time
23 of the purchase, as determined by the governing board.

24 (2) A purchaser is not required to provide a signature to

1 claim an exemption from tax unless a paper exemption certificate is
2 used.

3 (3) The seller shall use the standard form for claiming an
4 exemption electronically that is adopted by the governing board.

5 (4) The seller shall obtain the same information for proof of
6 a claimed exemption regardless of the medium in which the
7 transaction occurred.

8 (5) The Tax Commissioner may utilize a system wherein the
9 purchaser exempt from the payment of the tax is issued an
10 identification number that is presented to the seller at the time
11 of the sale.

12 (6) The seller shall maintain proper records of exempt
13 transactions and provide the records to the Tax Commissioner or the
14 Tax Commissioner's designee.

15 (7) The Tax Commissioner shall administer use-based and
16 entity-based exemptions when practicable through a direct pay
17 permit, an exemption certificate or another means that does not
18 burden sellers.

19 (8) ~~After December 31, 2007, in~~ In the case of drop shipments,
20 a third-party vendor such as a drop shipper may claim a resale
21 exemption based on an exemption certificate provided by its
22 customer/reseller or any other acceptable information available to
23 the third-party vendor evidencing qualification for a resale
24 exemption, regardless of whether the customer/reseller is

1 registered to collect and remit sales and use taxes in this state,
2 when the sale is sourced to this state.

3 (b) The Tax Commissioner shall relieve sellers that follow the
4 requirements of this section from the tax otherwise applicable if
5 it is determined that the purchaser improperly claimed an exemption
6 and shall hold the purchaser liable for the nonpayment of tax. This
7 relief from liability does not apply:

8 (A) To a seller who fraudulently fails to collect the tax;

9 (B) To a seller who solicits purchasers to participate in the
10 unlawful claim of an exemption;

11 (C) To a seller who accepts an exemption certificate when the
12 purchaser claims an entity-based exemption when: (i) The subject of
13 the transaction sought to be covered by the exemption certificate
14 is actually received by the purchaser at a location operated by the
15 seller; and (ii) the state in which that location resides provides
16 an exemption certificate that clearly and affirmatively indicates
17 (graying out exemption reason types on uniform form and posting it
18 on a state's website is an indicator) that the claimed exemption is
19 not available in that state.

20 (c) *Time within which seller must obtain exemption*
21 *certificates.*

22 A seller is relieved from paying tax otherwise applicable
23 under article fifteen or fifteen-a of this chapter if the seller
24 obtains a fully completed exemption certificate or captures the

1 required data elements within ninety days subsequent to the date of
2 sale.

3 (d) (1) If the seller has not obtained an exemption
4 certificate or all required data elements, the seller ~~may~~ shall,
5 within one hundred twenty days subsequent to a request for
6 substantiation by the Tax Commissioner, either ~~prove that the~~
7 ~~transaction was not subject to tax by other means or~~ obtain a fully
8 completed exemption certificate from the purchaser, taken in good
9 faith which means that the seller obtain a certificate that claims
10 an exemption that: (i) Was statutorily available on the date of the
11 transaction in the jurisdiction where the transaction is sourced;
12 (ii) could be applicable to the item being purchased; and (iii) is
13 reasonable for the purchaser's type of business; or obtain other
14 information establishing that the transaction was not subject to
15 the tax. For purposes of this section, the Tax Commissioner may
16 ~~continue to apply this state's standards of good faith until a~~
17 ~~uniform standard for good faith is defined in the Streamlined Sales~~
18 ~~and Use Tax Agreement.~~

19 (2) If the seller obtains the information described in
20 subdivision (1) of this subsection, the seller shall be relieved of
21 any liability for the tax on the transaction unless it is
22 discovered through the audit process that the seller had knowledge
23 or had reason to know at the time such information was provided
24 that the information relating to the exemption claimed was

1 materially false or the seller otherwise knowingly participated in
2 activity intended to purposefully evade the tax that is properly
3 due on the transaction.

4 ~~(2)~~ (e) Nothing in this section shall affect the ability of
5 the Tax Commissioner to require purchasers to update exemption
6 certificate information or to reapply with the state to claim
7 certain exemptions.

8 ~~(3)~~ (f) ~~Notwithstanding the preceding provisions of this~~
9 ~~section, when an exemption may be claimed by exemption~~
10 ~~certificate, a~~ A seller is relieved from paying the tax otherwise
11 applicable if the seller obtains a blanket exemption certificate
12 from a purchaser with which the seller has a recurring business
13 relationship. ~~The~~ Notwithstanding the provisions of subsection (e)
14 of this section, the Tax Commissioner may not request from the
15 seller renewal of blanket certificates or updates of exemption
16 certificate information or data elements when there is a recurring
17 business relationship between the buyer and seller. For purposes of
18 this subdivision, a recurring business relationship exists when a
19 period of no more than twelve months elapses between sales
20 transactions.

21 ~~(d)~~ (g) *Exception.--*

22 No exemption certificate or direct pay permit number is
23 required when the sale is exempt per se from the taxes imposed by
24 articles fifteen and fifteen-a of this chapter.

1 **§11-15B-25. Uniform tax returns.**

2 (a) *General.--*

3 A seller who registers with this state is required to file a
4 single sales and use tax return with the Tax Commissioner for each
5 taxing period.

6 (b) *Due date of return.--*

7 (1) This return shall be due on the twentieth day of the month
8 following the month in which the transaction subject to tax
9 occurred.

10 (2) When the due date for a return falls on a Saturday or
11 Sunday or legal holiday, the return shall be due on the next
12 succeeding business day. If the return is filed in conjunction
13 with a remittance and the remittance cannot be made pursuant to
14 subdivision (e), section twenty-six of this article, the return
15 shall be accepted as timely on the same day as the remittance under
16 that subdivision.

17 (c) *Additional information returns.--*

18 The Tax Commissioner shall make available to all sellers,
19 except sellers of products qualifying for exclusion from the
20 provisions of the agreement, a simplified return that is filed
21 electronically.

22 (d) The Tax Commissioner may not require a seller which has
23 indicated at the time of registration that it anticipates making
24 no sales which would be sourced to this state to file a return,

1 except that the seller shall lose the exemption upon making any
2 taxable sales into this state and shall file a return in the month
3 following any sale.

4 (e) After January 1, 2010, the Tax Commissioner shall give
5 notice to a seller, which has no legal requirement to register in
6 this state, of a failure to file a required return and a minimum of
7 thirty days to file thereafter prior to establishing a liability
8 amount for taxes based solely on the seller's failure to timely
9 file a return: *Provided*, That the Tax Commissioner may establish a
10 liability amount of taxes based solely on the seller's failure to
11 timely file a return if such seller has a history of nonfiling or
12 late filing.

13 (f) Nothing in this section shall prohibit the Tax
14 Commissioner from allowing additional return options or the filing
15 of returns less frequently.

16 **§11-15B-26. Uniform rules for remittances of funds.**

17 (a) *General.--*

18 Only one remittance is required for each return except as
19 provided in this section.

20 (b) *When electronic remittance required.--*

21 (1) All remittances from sellers under Models I, II and III
22 shall be remitted electronically after December 31, 2003.

23 (2) All remittances in payment of taxes reported on the
24 approved simplified return format shall be remitted electronically.

1 (c) *Method of remittance.--*

2 Electronic payments shall be made using either the ACH credit
3 or ACH debit method.

4 (d) *Alternative method.--*

5 The Tax Commissioner shall provide by rule, which may be an
6 existing rule, an alternative method for making "same day" payments
7 if an electronic funds transfer fails.

8 (e) *Due date of remittances.--*

9 (1) If a due date for a payment falls on a Saturday, Sunday,
10 or legal holiday, the payment, including any related payment
11 voucher information, is due on the next succeeding business day.

12 (2) If the Federal Reserve Bank is closed on a due date that
13 prohibits a person from being able to make a payment by ACH Debit
14 or Credit, the payment shall be accepted as timely if made on the
15 next day the Federal Reserve Bank is open.

16 ~~(e)~~ (f) *Format of data accompanying remittance.--*

17 Any data that accompanies a remittance shall be formatted
18 using uniform tax type and payment type codes approved by the
19 governing board.

20 **§11-15B-30. Monetary allowances for new technological models for**
21 **sales tax collection; delayed effective date.**

22 (a) *Monetary allowance under Model I.--*

23 (1) The Tax Commissioner shall provide a monetary allowance to

1 a certified service provider in Model I. This allowance shall be in
2 accordance with the terms of the contract between the governing
3 board of the Streamlined Sales and Use Tax Agreement and the
4 certified service provider. The details of this monetary allowance
5 shall be developed and provided through the contract process. The
6 contract shall provide that the allowance be funded entirely from
7 money collected in Model I.

8 (2) The contract between the governing board and the certified
9 service provider may base the monetary allowance to a certified
10 service provider on one or more of the following:

11 (A) A base rate that applies to taxable transactions processed
12 by the certified service provider; or

13 (B) For a period not to exceed twenty-four months following a
14 voluntary seller's registration through the agreement's central
15 registration process, a percentage of tax revenue generated for a
16 member state by the voluntary seller for each member state for
17 which the seller does not have a requirement to register to collect
18 the tax.

19 (b) *Monetary allowance for Model II sellers.--*

20 The monetary allowance to sellers under Model II may be based
21 on the following:

22 (1) All sellers shall receive a base rate for a period not to
23 exceed twenty-four months following the commencement of
24 participation by a seller. The base rate is set by the governing

1 board of the Streamlined Sales and Use Tax Agreement after the base
2 rate has been established for Model I certified service providers.
3 This allowance is in addition to any vendor or seller discount
4 afforded by each member state at the time.

5 (2) A voluntary Model II seller not otherwise required to
6 register with this state to collect the consumers sales and service
7 tax and use tax, that registers through the Streamlined Sales and
8 Use Tax Agreement's central registration process, shall receive for
9 a period not to exceed twenty-four months following the voluntary
10 seller's registration, the base rate percentage of tax revenue
11 generated for this state by the voluntary seller.

12 (3) Following the conclusion of the twenty-four-month period,
13 a seller will only be entitled to a vendor discount afforded under
14 each member state's law at the time the base rate expires.

15 ~~(c) Monetary allowance for Model III sellers and all other~~
16 ~~sellers that are not under Model I or II.~~

17 ~~A monetary allowance to sellers under Model III and to all~~
18 ~~other sellers registered under the agreement that are not sellers~~
19 ~~under Model I or II may be allowed based on the following:~~

20 ~~(1) For a period not to exceed twenty four months following a~~
21 ~~voluntary seller's registration through the agreement's central~~
22 ~~registration process, a percentage of tax revenue generated for a~~
23 ~~member state by the voluntary seller for each member state for~~
24 ~~which the seller does not have a requirement to register to collect~~

1 ~~the tax; and~~

2 ~~(2) Vendor discounts afforded under each member state's law.~~

3 ~~(d)~~ (c) Prohibition on allowance or payment of monetary
4 allowances.

5 Notwithstanding subsections (a), (b) and (c) of this section,
6 the Tax Commissioner may not allow any vendor, seller or certified
7 service provider any monetary allowance, discount or other
8 compensation for collecting and remitting the taxes levied by
9 articles fifteen and fifteen-a of this chapter, or for making and
10 filing the periodic reports required by this article, or articles
11 fifteen and fifteen-a of this chapter, until the cost of collection
12 study required by the agreement is completed and the monetary
13 allowances are based on the results of that study, or on
14 requirements of federal law requiring remote sellers to collect
15 sales and use taxes for states that have signed the agreement.

16 **§11-15B-32. Effective date.**

17 (a) The provisions of this article, as amended or added during
18 the regular legislative session in the year 2003, shall take effect
19 January 1, 2004, and apply to all sales made on or after that date
20 and to all returns and payments due on or after that day, except as
21 otherwise expressly provided in section five of this article.

22 (b) The provisions of this article, as amended or added during
23 the second extraordinary legislative session in the year 2003,
24 shall take effect January 1, 2004, and apply to all sales made on

1 or after that date.

2 (c) The provisions of this article, as amended or added by act
3 of the Legislature in the year 2004 shall apply to all sales made
4 on or after the date of passage in the year 2004.

5 (d) The provisions of this article, as amended or added during
6 the regular legislative session in the year 2008, shall apply to
7 all sales made on or after the date of passage and to all returns
8 and payments due on or after that day, except as otherwise
9 expressly provided in this article.

10 (e) The provisions of this article, as amended or added during
11 the 2009 regular legislative session, shall apply to all sales made
12 on or after the date of passage and to all returns and payments due
13 on or after that day, except as otherwise expressly provided in
14 this article.

15 (f) The provisions of this article, as amended or added during
16 the 2010 regular legislative session, shall apply to all sales made
17 on or after the date of passage and to all returns and payments due
18 on or after that day, except as otherwise expressly provided in
19 this article.

20 (g) The provisions of this article, as amended or added during
21 the 2012 regular legislative session, shall apply to all sales made
22 on or after the date of passage and to all returns and payments due
23 on or after that day, except as otherwise expressly provided in
24 this article.

1 **§11-15B-33. State administration of local sales and use taxes.**

2 The Tax Commissioner shall ~~conduct~~ administer, or authorize
3 others to conduct on his or her behalf, the sales and use tax laws
4 of this state subject to the agreement. Sellers and purchasers are
5 only required to register with, file returns with, and remit funds
6 to the Tax Commissioner. The Tax Commissioner shall collect any
7 municipal sales and use taxes and distribute them to the
8 appropriate taxing jurisdictions. The Tax Commissioner shall
9 conduct, or others may be authorized to conduct on his or her
10 behalf, all audits of sellers ~~registered under the Streamlined~~
11 ~~Sales and Use Tax Agreement~~ and purchasers for compliance with the
12 sales and use tax laws of this state and the sales and use tax laws
13 of its local jurisdictions. ~~¶~~ Except as provided herein, local
14 jurisdictions may not conduct independent sales or use tax audits
15 of sellers ~~registered under the Streamlined Sales and Use Tax~~
16 ~~Agreement~~ and purchasers.

17 **§11-15B-34. State and local sales and use tax bases.**

18 (a) *General.*-- The tax base of a local jurisdiction that
19 levies a local sales or use tax pursuant to authority granted by
20 the Legislature shall be identical to the sales and use tax base of
21 this state, unless otherwise prohibited by federal law, except as
22 provided in subsection (b) of this section.

23 (b) *Exceptions.*--

24 This section does not apply to sales or use taxes levied on:

1 (1) The wholesale sale of gasoline or special fuel to power motor
2 vehicles, aircraft, locomotives, or watercraft or to electricity,
3 piped natural or artificial gas or other fuels delivered by the
4 seller, which local jurisdictions are prohibited from taxing; or
5 (2) the retail sale or transfer of motor vehicles, aircraft,
6 watercraft, modular homes, manufactured homes or mobile homes.

NOTE: The purpose of this bill is to update code provisions to conform to the Streamlined Sales Tax Agreement. The bill adds new definitions and clarifies present definitions. The bill incorporates changes to the Streamlined Sales and Use Tax Agreement and adds computer software maintenance contracts as a Streamlined Sales and Use Tax Agreement. The bill also relieves a seller of the tax liability in certain instances, eliminates monetary allowances for certain sellers, provides new effective dates, clarifies state administration of state and local sales and use taxes, bases and exemptions.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.